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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,311

07/20/2006

Masahiro Mohri

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EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3754

NOTIFICATION DATE

DELIVERY MODE

03/18/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/597,311	Applicant(s) MOHRI ET AL.	
	Examiner James F. Hook	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-9 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/20/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Election/Restrictions

Applicant's election with traverse of figure 6 in the reply filed on November 27, 2009 is acknowledged. The traversal is on the ground(s) that after rewriting claim 1 as a Markush group that such would obviate a restriction requirement. This is not found persuasive because applicant was held to one embodiment for purposes of examination, and the subject matter of claims 2, 3, and 10 are specific to non-elected species, as is part of claim 1, specifically "a", therefore this subject matter is withdrawn as drawn to a non-elected species, and since claim 1 requires only one of the subparagraphs "a" or "b", then the claim can be met by a reference that meets the limitations of subparagraph "b".

The requirement is still deemed proper and is therefore made FINAL.

Claims 2, 3, and 10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 27, 2009.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mitsuaki (JP 2003-083482).

Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Katsuhiro (JP 2002-174374).

Claims 1, 4-7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Bittner. The reference to Bittner discloses the recited flexible pipe comprising a first resin layer 9, a conductive metal layer 6,7, a second resin layer 11 in this order from below on an outer surface of a corrugated metal pipe 5 for flowing a fluid, wherein the resin layer covers the entire outer surface of the corrugated metal pipe, the conductive layer is constituted by at least one metal tape extending along the corrugated metal pipe, the resin layer is an insulating layer, the first and second resin layers are insulating layers, and the metal layer is constituted by at least one metal tape layer formed as flat wires or strips.

Claims 11-13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bittner. The reference to Bittner discloses the recited structure above, including a parting layer 10 between the first and second insulating resin layers. The reference to Bittner discloses all of the recited

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structure with the exception of forming the first and second insulating layers as easily peelable layers, however, since there is no actual structure claimed which is different than that set forth in Bittner it is considered that such would be an inherent property of the plastic in that there is no degree of how peelable the layers need to be and that the plastic layers are inherently capable of being peeled. However, should such be considered an actual limitation that is not inherent to the plastic layers of Bittner then it would have been obvious to one skilled in the art to modify the plastic layers in Bittner to be easily peeled should such require peeling to allow for connection to connectors for connecting the hose to a source of fluid as such would only require routine experimentation to arrive at optimum values for the plastics used as such is merely a choice of mechanical expedients.

Claims 11-13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mitsuaki (JP 2003-083482). The reference to Mitsuaki discloses the recited structure above, including a parting layer 10 between the first and second insulating resin layers. The reference to Mitsuaki discloses all of the recited structure with the exception of forming the first and second insulating layers as easily peelable layers, however, since there is no actual structure claimed which is different than that set forth in Mitsuaki it is considered that such would be an inherent property of the plastic in that there is no degree of how peelable the layers need to be and that the plastic layers are inherently capable of being peeled. However, should such be considered an actual limitation that is not inherent to the plastic layers of Mitsuaki then it would have been obvious to one skilled in the art to

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modify the plastic layers in Mitsuaki to be easily peeled should such require peeling to allow for connection to connectors for connecting the hose to a source of fluid as such would only require routine experimentation to arrive at optimum values for the plastics used as such is merely a choice of mechanical expedients.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Espinasse, Takagi, Mariner, Doane, Bond, Jr., Hughey, Jr., Wellman, and Schippl disclosing state of the art hoses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/
Primary Examiner, Art Unit 3754

JFH